



**[Docket No. SBA-2021-0012]**

**Class Waiver of the Nonmanufacturer Rule**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice of change to the Nonmanufacturer Rule

**SUMMARY:** In the interest of efficiency and transparency the U.S. Small Business Administration intends to eliminate the use of Product Service Codes (PSC) to determine whether an item falls within a class waiver.

**DATES:** This action is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Carol J. Hulme, Attorney Advisor, by telephone at (202) 205-6347 or by email at [carol-ann.hulme@sba.gov](mailto:carol-ann.hulme@sba.gov).

**SUPPLEMENTARY INFORMATION:**

Section 8(a)(17) and 46 of the Small Business Act (Act), 15 U.S.C. 637(a)(17) and 657s, and SBA's implementing regulations require that recipients of Federal supply contracts issued as a small business set-aside (except as stated below), service-disabled veteran-owned small business (SDVO SB) set-aside or sole source contract, Historically Underutilized Business Zone (HUBZone) set-aside or sole source contract, WOSB (women-owned small business) or economically disadvantaged women-owned small business (EDWOSB) set-aside or sole source contract, 8(a) set-aside or sole source contract, partial set-aside, or set aside of an order against a multiple award contract provide the product of a small business manufacturer or processor if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule (NMR). 13 CFR 121.406(b). Note that the NMR does not apply to small business set-aside acquisitions with an estimated value between

the micro-purchase threshold and the simplified acquisition threshold but continues to apply to socioeconomic categories above the micropurchase threshold.

Sections 8(a)(17)(B)(iv)(II) and 46(a)(4)(B) of the Act authorizes SBA to waive the NMR for a class of products for which there are no small business manufacturers or processors available to participate in the Federal market. As defined in 13 CFR § 121.1202(d), a “class of products” is an individual subdivision within a North American Industry Classification System (NAICS) Industry Number as established by the Office of Management and Budget in the NAICS Manual. SBA has previously identified class waivers using a combination of (1) the six-digit NAICS code, (2) the four-digit PSC, and (3) a description of the class of products.

To improve consistency in the application of class waivers SBA will no longer use PSCs to classify products covered by class waivers. Instead, as provided in its regulations, SBA will use the NAICS as its classification system to identify products covered by class waivers.

More information on the NMR and Class Waivers can be found at <https://www.sba.gov/contracting/contracting-officials/non-manufacturer-rule/non-manufacturer-waivers>.

David Wm. Loines,

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[FR Doc. 2021-26371 Filed: 12/3/2021 8:45 am; Publication Date: 12/6/2021]